

UNITED STATES DISTRICT COURT
Northern District of California

DIANE M BERARDI-STOHNER,

No. C 14-01036 KAW (MEJ)

Plaintiff(s),

**ORDER SCHEDULING
SETTLEMENT CONFERENCE**

v.

MICHAEL PHILLIPS,

Defendant(s).

This case has been referred for a Settlement Conference before Magistrate Judge Maria-Elena James. If this case settles prior to the date of the Settlement Conference, the parties shall immediately notify the Courtroom Deputy, Rose Maher, at (415) 522-4708. Counsel shall provide a copy of this Order to each party who will participate in the conference.

The Settlement Conference shall take place on **October 7, 2014, at 10:00 a.m., in Magistrate Judge James' CHAMBERS** (not the courtroom), located on the 15th Floor of the Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. On the date of the settlement conference, the parties shall use the intercom adjacent to chambers' security entrance to notify the Court of their arrival.

It is not unusual for the conference to last three (3) or more hours. All parties are encouraged to participate and frankly discuss their case. Statements they make during the conference will not be admissible at trial if the case does not settle. The parties should be prepared to discuss such issues as: (1) their settlement objectives; (2) any impediments to settlement they perceive; (3) whether they have enough information to discuss settlement and, if not, what additional information is needed; and (4) the possibility of a creative resolution of the dispute.

1 The parties shall comply with the following requirements for all settlement conferences before
2 Magistrate Judge James.

3 A) Discovery: It is the responsibility of counsel to ensure that whatever discovery is needed for
4 all sides to evaluate the case for settlement purposes is completed by the date of the
5 Settlement Conference. Counsel shall cooperate in providing discovery informally and
6 expeditiously.

7 B) Required Attendance: Lead trial counsel shall appear at the Settlement Conference with the
8 parties. Any party who is not a natural person shall be represented by the person(s) with
9 **unlimited** authority to negotiate a settlement. Note: A person who needs to call another
10 person not present before agreeing to any settlement does not have full authority.

11 1) Governmental Entity: If a party is a governmental entity, its governing body shall
12 designate one of its members or a senior executive to participate in the conference and,
13 if a tentative settlement agreement is reached, to recommend the agreement to the
14 governmental entity for its approval.

15 2) Insured Party: An insured party shall appear with a representative of the carrier with
16 full authority to negotiate up to the limits of coverage. Personal attendance of a party
17 representative will rarely be excused by the Court, and then only upon separate written
18 application demonstrating substantial hardship served on opposing counsel and lodged
19 as early as the basis for the hardship is known but no later than the due date of the
20 Settlement Conference Statement.

21 C) Minors: No child under the age of 18 may attend the settlement conference without obtaining
22 an order from this Court allowing the child to attend. Any request for relief from this Court's
23 policy must be made 14 days before the settlement and must state good cause for the Court to
24 make an exception in the case.

25 D) Requests to be Excused: Parties may only be excused from attending the settlement
26 conference in person upon written authorization from Magistrate Judge James. Any such
27 request must be filed as a motion and proposed order at least 14 days in advance of the
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conference.

E) Rescheduling: To reschedule a settlement conference, counsel shall contact the Courtroom Deputy, Rose Maher, at (415) 522-4708, preferably at least seven days from the conference but as far in advance as possible to obtain a new date. Counsel shall confirm the new date and time with opposing counsel and thereafter file a stipulation and proposed order which sets forth the new date and time of the settlement conference. The parties are advised that the original settlement conference date will remain on calendar unless they receive an order from the Court.

F) Submission of Settlement Conference Statements: Each party shall prepare a Settlement Conference Statement, which shall comply with the guidelines listed below.

- 1) The statements must be LODGED with the Clerk's Office (NOT electronically filed) no later than seven (7) calendar days prior to the conference. Statements shall be submitted in a sealed envelope to the Clerk's Office, located at 450 Golden Gate Avenue, 16th Floor, P.O. Box 36060, San Francisco, California 94102. Envelopes should be prominently marked **"CONFIDENTIAL - SETTLEMENT CONFERENCE STATEMENT - DO NOT FILE."**
- 2) Each party shall submit their Settlement Conference Statement in Word or Adobe pdf format to MEJPO@cand.uscourts.gov.
- 3) Although the parties do not need to exchange statements, they are encouraged to do so. If statements are exchanged, any party may submit a separate confidential settlement letter to the Court not to exceed three (3) pages. The contents of this letter will not be disclosed to the other parties.

G) Content of Settlement Conference Statements: The form and content of the statement may vary depending on the case. Generally, the statement shall include the following:

- 1) Statement of Facts: A description of the facts giving rise to the case.
- 2) Summary of Proceedings: A summary of the proceedings to date.
- 3) Undisputed Matters: A statement of all material facts not in dispute.

- 4) Disputed Issues of Fact: A statement of disputed material facts.
- 5) Disputed Issues of Law: A statement of the disputed points of law, including reference to specific statutes and decisions relied upon. Extended legal argument is not appropriate nor required. Reference may be made to Points and Authorities previously filed.
- 6) Relief Sought: A statement of the relief sought, including an itemization of all damages sought and a breakdown of the estimated cost if the case proceeds to trial.
- 7) Prior Settlement Discussions: A chronological summary of prior settlement negotiations, including settlement offers and responses thereto.
- 8) Settlement Analysis: A forthright evaluation of the strengths and weaknesses of your case and the probabilities of prevailing on the major issues in dispute.
- 9) Discrete Issues: Identify and prioritize any discrete issues which, if resolved, would aid in the disposition of the case.
- 10) Current Settlement Position: Set forth a reasonable proposal of settlement.

IT IS SO ORDERED.

Dated: August 8, 2014



Maria-Elena James
United States Magistrate Judge